

An Evaluation:

## Contract Sunshine Act

Government Accountability Board

August 2011

# Report Highlights ■

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***Wisconsin's Contract Sunshine statutes were enacted in May 2006 to promote transparency and fiscal responsibility.***

***Only minimal resources have been devoted to developing and maintaining the Contract Sunshine Web site.***

***Reporting has increased since July 2010, but information is not always complete, accurate, timely, or useful to the public.***

***Additional information is needed before the Legislature considers repealing the Contract Sunshine statutes.***

Wisconsin's Contract Sunshine Act requires all state agencies in the executive, legislative, and judicial branches to report their purchasing activities amounting to \$10,000 or more in a fiscal biennium to the Government Accountability Board (GAB) for posting to a publicly accessible Web site. Information must be reported within 24 hours and must include the purpose, date, and estimated amount of each reportable transaction. Statutes do not assign responsibility for ensuring compliance with reporting requirements or verifying the accuracy and completeness of the reported information, but GAB has instructed most agencies to submit written certification of their compliance every three months.

At the request of the Joint Legislative Audit Committee, we addressed concerns about compliance with the Contract Sunshine Act and the accuracy and timeliness of information posted to the Contract Sunshine Web site by:

- reviewing efforts to develop and maintain the Web site and ensure reporting compliance;
- analyzing the purchasing information reported through October 2010, as well as the difficulties state agencies have encountered in attempting to comply with the reporting requirements and efforts to improve reporting; and
- considering the future of Contract Sunshine in light of recent legislation directing the Department of Administration (DOA) to develop a new expenditure, contract, and grant information Web site.

## Key Facts and Findings

*GAB has been appropriated \$11,300 annually to maintain the Contract Sunshine Web site.*

*Numerous limitations with the Contract Sunshine Web site's design have hindered state agency reporting.*

*Some state agencies are uncertain about their reporting requirements.*

*From July through October 2010, only 11.4 percent of transactions were reported within the required 24 hours.*

*State agencies report similar purchasing information to the Contract Sunshine Web site and at least nine other Web sites.*

*In 2011 Wisconsin Act 32, the Legislature directed DOA to establish a new publicly accessible expenditure, contract, and grant information Web site.*

## Web Site Development

The Contract Sunshine Act predates GAB, and no funding was initially appropriated for Web site development. The work was therefore completed by staff whose primary expertise was in other areas, and initial results were of limited use to the public.

In December 2006, the Joint Committee on Finance made \$30,000 available to fund external development of the current Contract Sunshine Web site, which was launched in December 2007. GAB continues to contract with a Madison firm for Web site maintenance and is appropriated \$11,300 annually for the Web site.

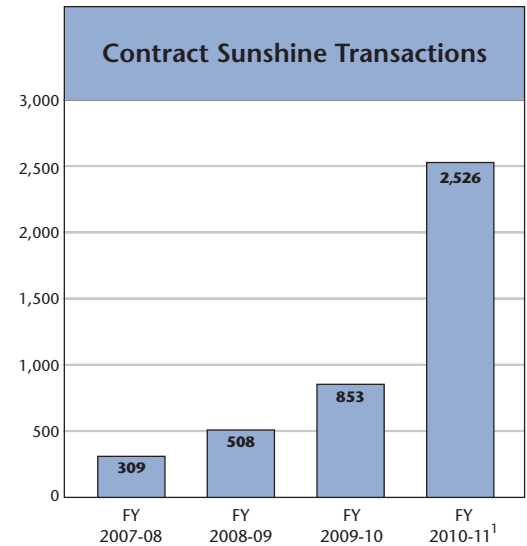
GAB directed a staff member to spend 35.0 percent of his time on Contract Sunshine issues beginning in October 2009.

## Reporting Concerns

As of November 2010, GAB had identified 95 agencies subject to Contract Sunshine reporting requirements. Not all state agencies regularly make purchases of \$10,000 or more in a fiscal biennium, but more than 60.0 percent of all transactions posted on the Contract Sunshine Web site were reported only after we began our audit work.

Only 12 agencies reported transactions in fiscal year (FY) 2009-10, but 38 agencies reported 2,526 transactions during the first four months of FY 2010-11, including several

large agencies that reported to the current Web site for the first time in that year.



<sup>1</sup>July through October 2010.

Moreover, GAB has at various times instructed agencies to report only their transactions of \$25,000 or more and to limit certain other types of reporting, both to reduce data volume while the Web site was being improved and in response to the agencies' difficulties in compiling data for reporting at the level of detail required by the Contract Sunshine Act.

In some instances, limitations in the Web site's design have also affected the timeliness and comprehensiveness of agency reporting. For example:

- Transactions generally cannot be transferred automatically from agencies' own purchasing systems to the Web site, but must instead be compiled and reported by agency staff.

- Until September 2010, DOA was unable to easily report the transactions of 12 agencies for which it has consolidated purchasing responsibility.
- Until April 2010, agencies were unable to report the purchases they made under statewide purchasing contracts unless DOA or GAB had first reported contract information.

GAB has conducted training, developed a manual, and begun to develop administrative rules to clarify the types of transactions state agencies are required to report and to formalize its own oversight responsibilities. Although statutes do not explicitly authorize GAB to promulgate rules for ensuring compliance with reporting requirements or assign it responsibility for oversight of the reporting process, it has since September 2010 also instructed most agencies to certify in writing either that they have complied with all reporting requirements or that they had no reportable transactions for the prior three months.

In November 2010, certification results for the first three months of FY 2010-11 were posted on the Contract Sunshine Web site. When we reviewed documentation submitted by 37 agencies the Web site indicated were fully compliant, we found that some had included comments noting they had not always complied with the 24-hour reporting deadline. Nearly two-thirds of all contracts and

purchase orders reported in the first four months of FY 2010-11 were reported ten days or more after they had occurred.

## Future Considerations

Although some had expected the Contract Sunshine Web site to serve as an “open checkbook” showing how state agencies spend public funds, it has been of limited value in providing the public with clear, comprehensive, and useful information.

One reason is that the Contract Sunshine Act requires state agencies to report only the estimated value of contracts, solicitations, and certain other transactions, and actual expenditures may differ significantly from these estimates.

Another is that information posted on the Web site separately indicates the values of a contract and all associated purchase orders. For example, if an agency executed a \$50,000 contract and then processed \$40,000 in purchase orders against that contract, the Web site would show \$90,000 in transactions rather than no more than \$40,000 in expenditures.

In addition, the Contract Sunshine Act does not require agencies to report vendor names, although GAB has instructed them to do so, and it can be challenging for public users to locate particular transactions or to determine their purpose or the amount of a vendor’s contracts

based on the Web site’s current configuration.

We also found considerable overlap in the purchasing information that state agencies report to the Contract Sunshine Web site and at least nine other Web sites.

In 2011 Wisconsin Act 32, the Legislature directed DOA to establish a new publicly accessible Web site that will report all expenditures for state operations exceeding \$100.

If implemented as specified, this Web site could be more useful than the Contract Sunshine Web site for public monitoring of government purchasing transactions. However, before the Legislature considers repealing Contract Sunshine statutes, it will be important to ensure that the new Web site can achieve its intended goals at a reasonable cost and in a timely manner.

## Recommendations

Our report includes a recommendation that:

- ☑ DOA report to the Joint Legislative Audit Committee by January 17, 2012, on the status of its efforts to implement the new expenditure, contract, and grant information Web site required by 2011 Wisconsin Act 32, as well as projected development and maintenance costs and the reporting efforts that will be required by state agencies (*p. 32*).

After it reviews the information reported by DOA, we recommend that the Legislature either:

- ☑ repeal Contract Sunshine statutes if it determines the new expenditure, contract, and grant information Web site complies with the requirements of Act 32 and will provide the public with clear, comprehensive, and useful information; or
- ☑ modify Contract Sunshine statutes so that DOA is authorized to maintain the Contract Sunshine Web site, oversee and enforce reporting, and promulgate administrative rules related to these duties, and agencies are required to report vendor names, to report transactions on a monthly rather than a daily basis, and to report only individual purchase orders that meet or exceed the \$10,000 threshold (*p. 33*).

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## Additional Information

For a copy of report 11-11, which includes a response from the Government Accountability Board, call **(608) 266-2818** or visit our Web site:



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Address questions regarding this report to:

Dean Swenson  
(608) 266-2818

## Legislative Audit Bureau

22 East Mifflin Street  
Suite 500  
Madison, WI 53703  
(608) 266-2818

Toll-free hotline:  
1-877-FRAUD-17

Joe Chrisman  
Interim State Auditor